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## TRANSMITTAL FORM

*(to be used for all correspondence after initial filing)*

**Total Number of Pages in This Submission**

20

32	Attorney Docket Number	MSDI-223/PC444.06
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10756.070

Approved for use through 07/03/2006. GPO 2001-000

 <b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	10/756,970
		Filing Date	January 13, 2004
		First Named Inventor	Kevin T. Foley
		Art Unit	3733
		Examiner Name	Mary C. Hoffman
Total Number of Pages in This Submission	20	Attorney Docket Number	MSDI-223/PC444.06

**ENCLOSURES** *(Check all that apply)*

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
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<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Return Receipt Postcard
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<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		
<input type="checkbox"/> Remarks		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	Krieg DeVault LLP		
Signature			
Printed name	Brad A. Schepers		
Date	February 20, 2009	Reg. No.	45,431

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Date February 20, 2009

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

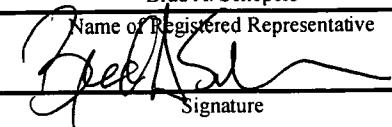
  
In re patent application of: ) Before the Examiner  
Foley et al. ) Mary C. Hoffman  
Application Serial No. 10/756,970 ) Group Art Unit 3733  
Filed January 13, 2004 ) Ref. No. MSDI-223/  
 ) PC444.06  
 )  
SURGICAL INSTRUMENTATION AND ) February 20, 2009  
METHOD FOR TREATMENT OF THE SPINE )

**RESPONSE TO FINAL OFFICE ACTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the final Office Action dated December 26, 2008, please enter and consider the following amendments and remarks. Additionally, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

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**INTRODUCTORY COMMENTS**

Claims 55-63, 65-74 and 94-103 were pending in the subject application for the final Office Action dated December 26, 2008. Each of the pending claims currently stands rejected. In view of the following amendments and remarks, reconsideration and allowance of the subject application are hereby requested.